



BEFORE THE STATE BOARD OF EQUALIZATION\--
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of
LOUIS H. BOYAR AND LOUIS H. BOYAR;
EXECUTOR OF THE ESTATE OF MAE R.
BOYAR, DECEASED

Appearances:

For Appellants: Helen A. Buckley,
Attorney at Law

For Respondent: Israel Rogers,
Associate Tax Counsel

O P I N I O N

This appeal is made pursuant to **section 18594** of the Revenue and Taxation Code from the action of the Franchise Tax Board **on** the protest of Louis H. Boyar, individually and as executor of the Estate of Mae R. Boyar, deceased, against a **proposed** assessment of additional personal income tax in the **amount** of \$9,427.22 for the year 1957.

The issue in this appeal concerns the value of property received by appellant Louis H. Boyar in the **liquida-**tion of a corporation named **Lakewood Park**,

Lakewood Park was incorporated in 1950. Appellant was its president and one of three stockholders who held equal interests. Subsequently, appellant contributed a portion of his stock to the Boyar Foundation, a tax exempt organization.

In 1957, **Lakewood Park** was liquidated. For purposes of distribution, its real property was divided into several groups or packages of nearly equal value, based upon values determined by appellant. The packages were assigned among the stockholders through drawings made by them on the basis of chance. Differences in the values, of the packages were offset by cash. The realty, which constituted the bulk of

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the assets, was distributed on February 15, 1957, and the liquidation was completed in December of that year.

In his return for 1957, appellant valued the *net* assets which he received from Lakewood Park at \$4,231,746.06, and reported his gain on the liquidation accordingly.

On Form 599L, a form on which corporations are required to report liquidation distributions, Lakewood Park valued the assets received by appellant at \$4,834,291.65. Respondent was informed that this figure was based upon an appraisal of the corporate assets by an independent firm of appraisers.

Respondent relied upon the valuation reported by Lakewood Park except respondent found that the valuation did, not take into account certain offsetting cash payments made by appellant. Allowing for these offsets, respondent determined that the net assets received by appellant amounted to \$4,624,546.74 and that his gain, therefore, was \$392,800.68 greater than the amount he reported.

Section 17401 of the Revenue and Taxation Code provides that amounts distributed in complete liquidation of a corporation are to be treated as received in exchange for the stock. The amount realized on the liquidation is determined pursuant to section 18031, which provides that property other than money is to be taken into account at its fair market value.

In support of his valuation, appellant testified that he has been in the business of purchasing and subdividing land since 1936. He stated that his appraisal of the realty was based upon figures arrived at by an independent appraiser for the year 1956. He submitted worksheets showing his revisions of the estimates made by the independent appraiser.

In addition to values for 1956, appraised values for 1954 appear on appellant's worksheets. With respect to every piece of property held in both of those years, the values shown for 1956 exceed those for 1954. The average increase, without considering appellant's revision of the 1956 figures, is approximately 33 percent. Based upon appellant's revision of the 1956 figures, there is an average increase of 29 percent over the figures shown for 1954. Some of the increases are due to improvements, but increases up to 50 percent also appear in the value of unimproved land.

There is also in evidence a copy of an appraisal report made by another independent appraiser as of May 1956. The figures arrived at by appellant as to individual parcels

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are, with few exceptions, identical with those contained in the appraisal report made as of May 1956.

In summary, the evidence indicates that the value of the realty rose substantially in the two-year period from 1954 to 1956 and that the figures used by appellant reflect values as of May 1956. It is to be expected that there would also be an increase in value in the period from May 1956 to February 1957, when the property was distributed,

As determined by respondent, the value of the assets received by appellant in February 1957 was approximately 9 percent above the valuation used by appellant. That percentage of increase appears to be a conservative reflection of the upward trend of values over the period from May 1956 to February 1957.

Considering the entire record, we cannot find that respondent has erred in relying upon information supplied by Lakewood Park itself concerning the value of property which it distributed to appellant,

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Louis H. Boyar, individually and as executor of the Estate of Mae R. Boyar, deceased, against a proposed assessment of additional personal income tax in the amount of \$9,427.22 for the year 1957 be, and the same is hereby, sustained,

Done at Sacramento, California, this 14th day of December, 1965, by the State Board of Equalization.

John W. Lynch, Chairman
Paul R. Leate, Member
Paul R. Leate, Member
_____, Member
_____, Member

Attest:

W. Freeman, Secretary